

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Wednesday, August 6, 2003 – 9:00 a.m. – Room 416 State Capitol

**Members Present:**

Rep. David Ure, House Chair  
Sen. Howard A. Stephenson, Senate Chair  
Sen. Mike Dmitrich  
President Al Mansell  
Sen. Ed Mayne  
Sen. Michael G. Waddoups  
Rep. Judy A. Buffmire  
Rep. James R. Gowans

**Members Absent:**

Rep. Merlynn T. Newbold  
Speaker Martin R. Stephens

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Cassandra N. Bauman, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary at 538-1032.

**1. Committee Business**

Chair Ure called the meeting to order at 9:21 a.m. Rep. Newbold and Speaker Stephens were excused from the meeting.

**MOTION:** Rep. Buffmire moved to approve the minutes of the July 9, 2003 meeting. The motion passed unanimously with Sen. Stephenson and Sen. Waddoups absent for the vote.

**2. R590-222 Viatical Settlements**

Chair Ure explained the issue as discussed in the July 9, 2003 meeting.

Mr. Neal Gooch, Deputy Commissioner, Insurance Department, indicated that the Department is working on draft legislation to present in the next meeting to address concerns that the Department is exceeding its statutory authority.

**3. R277-484 Data Standards, Deadlines and Procedures**

Mr. Patrick Ogden, Associate Superintendent for Finance, Utah State Office of Education, and Mr. Larry Newton, Director of Finance, Utah State office of Education, explained the reasons for reporting inaccurate data in the Data Warehouse. Mr. Ogden indicated that the term "inaccurate data" is defined to include incomplete or missing data as well as inaccurate data.

The Committee expressed concern for reporting inaccurate data. Sen. Waddoups indicated that if the data is incomplete, the rule should refer to incomplete data, not inaccurate data. He indicated also that more attention should be given to notifying the reader that data may be incomplete or missing.

**3. R380-250 HIPAA Privacy Rule Implementation**

Mr. Hunsaker distributed "Executive Order - For the Creation of a Health Insurance Portability and Accountability Act Task Force."

Mr. Doug Springmeyer, Assistant Attorney General, Department of Health, explained that the concerns which Rep. Ure expressed during the July 9, 2003 meeting regarding the HIPAA rule are addressed in the federal statute (45 CFR 160-403) which requires the Department to write the rules governing HIPAA.

Sen. Mayne expressed concern with recent changes made to R612-2-22 from the July 15, 2003 *Utah State Bulletin* in response to HIPAA. He pointed out that insurance companies, under the new rule, have expanded access to medical history unrelated to the injury.

Ms. Joyce Sewell, Director, Labor Commission, explained that by rule, insurance carriers have always been allowed to receive all medical records for a patient up to 15 years prior to an industrial accident with a medical release signed by the injured worker. She indicated that the rule now allows the release of medical records without a release form.

Chair Ure indicated that R612-2-22 should be placed on the next agenda.

#### **4. Statutory Terms Related to Rulemaking**

Mr. Hunsaker distributed "Statutory Terms Related to Rulemaking"; "S.B. 30 Utah Administrative Rulemaking Act Amendments"; and "When Rulemaking is Required."

Mr. Kevin Carter, Director, SITLA (School and Institutional Trust Lands Administration), indicated that the Administration is assuming that if statutory language requires an action that triggers the need for rulemaking the Administration has the authority to write rules. He indicated that there are four uses of the term "policy" or "policies" in SITLA statutes that would require rulemaking.

Chair Ure suggested that the Administration propose legislation for the 2004 General Session to change those four uses of "policy" or "policies" to "rule" or "rules."

Mr. Ken Hansen, Director, Division of Administrative Rules, indicated that the Committee and agencies should work on all of the suggestions which were provided in the options listed on the handout "Statutory Terms Related to Rulemaking."

#### **6. Other Items / Adjourn**

The next meeting is tentatively scheduled for Wednesday, August 20, 2003 at 9:00 a.m.

**MOTION:** Sen. Waddoups moved to adjourn the meeting. The motion passed unanimously with President Mansell absent for the vote.

Chair Ure adjourned the meeting at 11:03 a.m.